

225 CMR 15.00 RENEWABLE ENERGY PORTFOLIO STANDARD – CLASS II

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15.01: Authority

225 CMR 15.00 is promulgated pursuant to M.G.L. c. 25A, § 11F.

15.02: Definitions

Aggregation. A group of one or more Generation Units that receives a single Statement of Qualification from the Department under criteria and procedures set forth in 225 CMR 15.05(6).

Alternative Compliance Payment. A payment of a certain dollar amount per MWh, resulting in the issuance of Alternative Compliance Credits, which a Retail Electricity Supplier may submit to the Department in lieu of providing RPS Class II Renewable Generation Attributes or RPS Class II Waste Energy Generation Attributes required under 225 CMR 15.07.

Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon making an Alternative Compliance Payment. Such credit is used to document compliance with 225 CMR 15.07. One unit of credit shall be equivalent to the RPS Class II Renewable Generation Attribute associated with one MWh of electrical energy output from a RPS Class II Renewable Generation Unit, excluding Waste Energy Generation Units, and one unit of credit shall be equivalent to the RPS Class II Waste Energy Generation Attribute associated with one MWh of electrical energy output from a RPS Class II Waste Energy Generation Unit.

Blended Fuel. A liquid or gaseous fuel that is blended from both Eligible RPS Class II Renewable Fuel(s) and ineligible fuel(s), a portion of whose electrical energy output may qualify as RPS Class II Renewable Generation under criteria set forth in 225 CMR 15.05(3).

Business Day. A business day shall mean Monday through Friday, exclusive of state and federal legal holidays.

Certificates Obligation. A term defined in the NEPOOL GIS Operating Rules at Rule 4.1(b), or any successor rule.

Commercial Operation Date. The date that a Generation Unit first produced electrical energy for sale within the ISO-NE Control Area or within an adjacent Control Area. In the case of a Generation Unit that is connected to the End-use Customer's side of the electric meter or produces Off-grid Generation, the date that such Generation Unit first produced electrical energy.

Compliance Filing. A document filed annually by a Retail Electricity Supplier with the Department documenting compliance with 225 CMR 15.07, consistent with the format set forth in the Guidelines and submitted no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

Compliance Year. A calendar year beginning January 1 and ending December 31, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225 CMR 15.07 and 15.08.

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Department. The Massachusetts Department of Energy Resources (DOER), established by M.G.L. c. 25A, § 1.

Eligible Biomass Fuel. Fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that are not mixed with other unsorted solid wastes; by-products or waste from animals or agricultural crops; food or vegetative material; energy crops; algae; organic refuse-derived fuel; anaerobic digester gas and other biogases that are derived from such resources; and neat Eligible Liquid Biofuel that is derived from such fuel sources.

Eligible Liquid Biofuel. A liquid fuel that is derived from Eligible Biomass Fuel and that yields at least a 50 per cent reduction in Lifecycle Greenhouse Gas Emissions relative to average lifecycle greenhouse gas emissions for petroleum distillate fuel sold in 2005, as determined by the Department in consultation with the MassDEP and the Executive Office of Energy and Environmental Affairs; or that is derived from waste feedstocks consisting of previously used or discarded solid, liquid or contained gaseous material resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater, or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the MassDEP.

Eligible RPS Class II Renewable Fuel. An Eligible Biomass Fuel, landfill methane gas, municipal solid waste, hydrogen derived from such fuels or hydrogen derived from water using the electrical output of a Renewable Generation Unit, but not hydrogen derived using

RPS Class I or Class II Renewable Generation if the RPS Class I or Class II Renewable Generation Attributes of such Generation are sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy regulatory obligations in any jurisdictions, and not hydrogen derived directly or indirectly from ineligible fuels.

End-use Customer. A person or entity in Massachusetts that purchases electrical energy at retail from a Retail Electricity Supplier, except that a Generation Unit taking station service at wholesale from ISO-NE or self-supplying from its owner's other generating stations, shall not be considered an End-use Customer.

Generation Attribute. A non-price characteristic of the electrical energy output of a Generation Unit including, but not limited to, the Unit's fuel type, emissions, vintage and RPS eligibility.

Generation Unit. A facility that converts a fuel or an energy resource into electrical energy.

Geothermal Energy. Heat energy stored in the Earth's crust that can be accessed for electric power generation.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies Generation Attributes of each MWh accounted for in the NEPOOL GIS.

Guidelines. A set of clarifications, interpretations, and procedures, including forms, developed by the Department to assist in compliance with the requirements of 225 CMR 15.00. The Department may issue new or revised Guidelines from time to time. Each Guideline shall be effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 15.00.

Hydroelectric Energy. Electrical energy from a Generation Unit that uses flowing freshwater as the primary energy resource, with or without a dam structure or other means of regulating water flow, and that is not located at a facility that uses mechanical or electrical energy to pump water into a storage facility.

Impacted Watershed. All water bodies or areas of land hydrologically connected to a hydroelectric facility, whether located upstream or downstream, which may experience any alteration of their physical, biological, or ecological characteristics as a result of the operation or increased capacity expansion of a Generation Unit.

ISO-NE. ISO New England Inc., the independent system operator for New England, the regional transmission organization for most of New England, which is authorized by the Federal Energy Regulatory Commission (FERC) to exercise for the New England Control Area the functions required pursuant to the FERC's Order No. 2000, the FERC's corresponding regulations, and any successor FERC orders and regulations.

ISO-NE Settlement Market System. The ISO-NE's electronic database system into which all real-time load and generation data are entered and from which such data are provided to the NEPOOL GIS.

Lifecycle Greenhouse Gas Emissions. The aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the Department in consultation with the MassDEP and the Executive Office of Energy and Environmental Affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel at the Generation Unit, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

Low Impact Hydro Power Institute (LIHI). A non-profit 501(c)(3) organization located in Portland, Maine, whose stated purpose is to reduce the impacts of hydropower generation through the certification of hydropower projects that have avoided or reduced their environmental impacts pursuant to the Low Impact Hydropower Institute's criteria.

Marine or Hydrokinetic Energy. Electrical energy derived from waves, tides and currents in oceans, estuaries and tidal areas; free-flowing water in rivers, lakes, streams, and human-made channels, provided that such water is not diverted, impounded, or dammed; or differentials in ocean temperature, called ocean thermal energy conversion.

MassDEP. The Massachusetts Department of Environmental Protection established by M.G.L. c. 21A, § 7.

Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million watts of power operating for one hour.

NEPOOL GIS. The NEPOOL Generation Information System, which includes a generation information database and certificate system, operated by the New England Power Pool (NEPOOL), its designee or successor entity, that accounts for Generation Attributes of electrical energy consumed within, imported into, or exported from the ISO-NE Control Area.

Non-intermittent Generation Unit. A Generation Unit having a capacity factor of 50 per cent or greater, as determined by the Department.

North American Electric Reliability Council (NERC) Tag. An identification of an electrical energy interchange transaction assigned in accordance with rules set forth by the North American Electric Reliability Council.

Off-grid Generation. The electrical energy produced by a Generation Unit that is not connected to a utility transmission or distribution system.

Operator. Any person or entity who has charge or control of a Generation Unit subject to 225 CMR 15.00, including without limitation a duly authorized agent or lessee of the Owner, or a duly authorized independent contractor.

Owner. Any person or entity who, alone or in conjunction with others, has legal ownership, a leasehold interest, or effective control over the real property or property interest upon which a Generation Unit is located, or the airspace above said real property, including without

limitation a duly authorized agent of the Owner. For the purposes of 225 CMR 15.02, Owner does not mean a person or entity holding legal title or security interest solely for the purpose of providing financing.

Relevant Hydroelectric Agency. A federal, state or provincial agency with oversight over fish and wildlife, water quality, river flows, fish passage and protection, mitigation and enhancement opportunities, related to a hydroelectric facility located in the Impacted Watershed or that impacts downstream or upstream passage of fish and wildlife.

Renewable Generation. The electrical energy output of a Renewable Generation Unit.

Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific Generation Unit that derives from the Unit's production of Renewable Generation.

Renewable Generation Unit. A Generation Unit that uses an Eligible RPS Class II Renewable Fuel, Hydroelectric Energy, waste-to-energy that is a component of conventional municipal solid waste plant technology in commercial use, or any of the fuels, energy resources or technologies set forth in 225 CMR 15.05(1)(a).

Retail Electricity Product. An electrical energy offering that is distinguished by its Generation Attributes and that is offered for sale by a Retail Electricity Supplier to End-use Customers.

Retail Electricity Supplier. A person or entity that sells electrical energy to End-use Customers in Massachusetts, including but not limited to electric utility distribution companies supplying basic service or any successor service to End-use Customers. A Municipal Lighting Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the obligations of a Retail Electricity Supplier under 225 CMR 15.00 so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply pursuant to M.G.L. c. 164, § 47A.

RPS Class II Renewable Generation. The electrical energy output of a RPS Class II Renewable Generation Unit, or that portion of the electrical energy output of an RPS Class II Generation Unit that qualifies under (1) a Co-firing and Blended Fuel Waiver, pursuant to 225 CMR 15.05(3); (2) the Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area; or (3) any other applicable provision of 225 CMR 15.00.

RPS Class II Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific RPS Class II Generation Unit that derives from the Unit's production of RPS Class II Renewable Generation, excluding Attributes derived from the production of Waste Energy.

RPS Class II Renewable Generation Unit. A Generation Unit or Aggregation that has received an RPS Class II Statement of Qualification from the Department.

RPS Class II Waste Energy Generation Attribute. The Generation Attribute of the electrical energy output of a specific Waste Energy Generation Unit that derives from the Unit's

production of Waste Energy.

Statement of Qualification (SQ). A written document from the Department that qualifies a Generation Unit or Aggregation as an RPS Class II Qualified Generation Unit, or that qualifies a portion of the annual electrical energy output of a Generation Unit or Aggregation as RPS Class II Renewable Generation.

Valid Air Permit. Within the United States, a current and effective authorization, license, certificate, or like approval to construct and/or operate a source of air pollution, issued or required by the regulatory agency designated in the applicable State Implementation Plan to issue permits under the Clean Air Act, 42 U.S.C. §§ 7401, *et seq.* In jurisdictions outside of the United States, it shall be a document demonstrating an equivalent authorization.

Waste Energy. Electrical energy generated from the combustion of municipal solid waste.

Waste Energy Generation Unit. A Generation Unit that utilizes conventional municipal solid waste plant technology in commercial use to generate Waste Energy.

15.03: Administration

225 CMR 15.00 shall be administered by the Department.

15.04: Applicability

225 CMR 15.00 applies to Retail Electricity Suppliers and to the Owners or Operators of RPS Class II Generation Units.

15.05: Eligibility Criteria for RPS Class II Generation Units

(1) Eligibility Criteria. A Generation Unit may qualify as an RPS Class II Generation Unit subject to the limitations in 225 CMR 15.05.

(a) Fuels, Energy Resources and Technologies. The Generation Unit shall use one or more of the fuels, energy resources and/or technologies listed in 225 CMR 14.05(1)(a)1 through 10.

1. Solar photovoltaic or solar thermal electric energy.
2. Wind energy.
3. Ocean thermal, wave or tidal energy.
4. Fuel cells using an Eligible RPS Class II Renewable Fuel.
5. Landfill methane gas, provided that such gas is collected and conveyed directly to the Generation Unit without use of facilities used as common carriers of natural gas.

6. Hydroelectric. An Generation Unit that uses Hydroelectric Energy may qualify as an RPS Class II Generation Unit, subject to the limitations in 225 CMR 15.05(1)(a)6.

- a. The Unit has a nameplate capacity up to 5 megawatts;
- b. The Unit does not involve any dam or water diversion structure constructed after December 31, 1997, or pumped storage of water.
- c. The Unit does not generate Marine or Hydrokinetic Energy.
- d. The Unit meets appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed, as determined by the Department in consultation with Relevant Hydroelectric Agencies. The Unit shall demonstrate compliance with such standards by submitting the documentation required in either 225 CMR 14.05(1)(a)6.d.i or ii.
 - i. LIHI Certification of the Unit; except that in either of the two circumstances provided in 225 CMR 14.05(1)(a)6.d.i, the Department may request further information from the applicant and the Relevant Hydroelectric Agencies as part of its review of the applicant's SQ Application. The Department shall notify the applicant of any such input from a Relevant Hydroelectric Agency not later than 30 days after receiving such input and shall provide the applicant an opportunity to respond to the Department not later than 30 days after the applicant's receipt of such notice from the Department.
 - A. If a Relevant Hydroelectric Agency identified an environmental concern and a proposed remedy to LIHI during the LIHI certification process, and such concern was not addressed in the LIHI certification to the satisfaction of the Agency, and the Agency consulted with the Owner or Operator of the Unit; or
 - B. If , between issuance of the LIHI certification and the Department's determination of the Unit's eligibility, a Relevant Hydroelectric Agency submits to the Department evidence of a significant environmental problem not previously known by such Agency, after consulting with the Owner or Operator of the Unit.
 - ii. A denial of certification from LIHI specifying the reasons the certification was denied and the applicant's proposed rationale for why the project should nevertheless receive a Statement of Qualification. In this instance, the Department shall notify and seek input from the Relevant Hydroelectric Agencies, which shall have 30 days from the date of their receipt of such notification to provide feedback to the Department. The Owner or Operator of the Unit shall be notified of any such input and shall

have 30 days from receipt of such notice to respond to the satisfaction of the Department as to why its Application should be approved. The Department thereafter shall make finding of whether the Unit meets appropriate environmental safeguards despite the lack of LIHI certification.

e. The Owner or Operator of the Unit must serve notice to all Relevant Hydroelectric Agencies of its application for LIHI certification and its submission of a Statement of Qualification Application and must provide notice of such service to the Department.

f. If LIHI fails to act to certify or deny certification within 180 days from the date of submission of the Unit's application to LIHI, the Owner or Operator shall file notice of such event with the Department. The Department shall review the federal, state or provincial permits for the Unit and any submissions to LIHI by Relevant Hydroelectric Agencies, and shall make a final determination as to whether the Unit meets environmental standards specified in 225 CMR 14.05(1)(a)6.d.

g. If LIHI is unable to review for certification a Unit that is located in a Control Area adjacent to the ISO-NE Control Area and outside the United States of America, the Owner or Operator of such Unit may petition the Department for certification using the LIHI standards by an independent third party acceptable to the Department.

7. Waste to Energy. A Generation Unit that uses Waste Energy may qualify as an RPS Class II Generation Unit subject to the following limitations:

a. Has received approval from the MassDEP of the Unit's participation in or operation of an authorized recycling program;

b. Maintains participation in or operation of such recycling program and confirms this maintenance by submitting an annual report to the Department and MassDEP of its compliance.

c. Complies with the applicable requirements of 310 CMR 7.08(2).

d. Complies with the applicable requirements of 310 CMR 19.0000

8. Low-emission, biomass power conversion technologies using an Eligible Biomass Fuel. A Generation Unit may qualify as an RPS Class II Generation Unit, provided it uses an Eligible Biomass Fuel, subject to the limitations in 225 CMR 14.05(1)(a)8.

a. The Department shall set forth in Guidelines low-emission eligibility criteria which will become effective on their date of issuance. Any emission eligibility criteria in subsequently revised Guidelines shall become effective 24 months from their date of issuance.

b. A Generation Unit that is not required to obtain an air permit in its jurisdiction must demonstrate to the satisfaction of the Department that its emissions are consistent with criteria set forth in the Guidelines that are applicable for the date on which the Department receives the Unit's Statement of Qualification Application.

c. In the case of a Generation Unit for whose size, type, or fuel the Guidelines do not provide applicable emission limits, the Department will determine appropriate limits in consultation with the MassDEP.

9. Marine or Hydrokinetic Energy.

10. Geothermal Energy.

(b) Commercial Operation Date. The Commercial Operation Date shall be on or before December 31, 1997.

(c) Metering. The electrical energy output from a Generation Unit shall be verifiable by the ISO-NE or by an independent verification system or person participating in the NEPOOL GIS accounting system as an independent Third Party Meter Reader, as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

(d) Location. The Generation Unit location is subject to the following limitations:

1. Off-grid Generation. If the Generation Unit produces Off-grid Generation, such Unit must be located in Massachusetts.

2. Behind-the-meter Generation. If the Generation Unit is wired to the electrical system on the End-use Customer's side of a retail electric meter, such Unit must be located inside the ISO-NE Control Area and have a nameplate capacity of 25 megawatts or less.

(e) Capacity Obligation. The Generation Unit's generating capacity is subject to the following obligations:

1. The amount of the generation capacity of the Generation Unit whose electrical energy output is claimed as RPS Class II Renewable Generation shall not be committed to any Control Area other than the ISO-NE Control Area unless such Generation Unit has entered into a Capacity Obligation in another Control Area before the start of the first available compliance year for the ISO-NE Forward Capacity Market, in which case this subsection shall apply upon the expiration of that Capacity Obligation. However, if the Generation Unit executed a contract for the sale of RPS Class I Renewable Generation Attributes or RPS Class I Renewable Generation, or both, before January 1, 2009, for a term of at least 2 years, the contract price of which relied on the receipt of capacity payments from a control area adjacent to the ISO-NE control area, and the Generation Unit can demonstrate such reliance to the satisfaction of the Department, this requirement shall not take effect for that Generation Unit until the expiration of that contract.

2. The Generation Unit Owner or Operator of a Non-intermittent Generation Unit shall commit to the ISO-NE Control Area the amount of the capacity of that Unit claimed as RPS Class II Renewable Generation by submitting by the applicable deadline a show of intent for the ISO-NE Forward Capacity Auction that is the earliest available for the Unit after the Owner or Operator has submitted a Statement of Qualification Application.

3. An RPS Class II Renewable Generation Unit that was deemed unqualified by the ISO-NE for participation in the ISO-NE Forward Capacity Market for technical reasons may commit capacity to another control area and may receive GIS Certificates for the energy sold into ISO-NE Control Area, subject to a determination by the Department.

(2) Co-Firing and Blended Fuel Waiver. All or a portion of the electrical energy output of a Generation Unit that uses ineligible fuel in conjunction with an Eligible RPS Class II Renewable Fuel, whether by co-firing such fuels or by using a Blended Fuel, may qualify as RPS Class II Renewable Generation provided the Generation Unit meets the eligibility requirements of 225 CMR 15.05, subject to the limitations in this subsection.

(a) The portion of the total electrical energy output that qualifies as RPS Class II Renewable Generation in a given time period shall be equal to the ratio of the net heat content of the Eligible RPS Class II Renewable Fuel consumed to the net heat content of all fuel consumed in that time period.

(b) If using an Eligible Biomass Fuel, the Generation Unit must demonstrate to the satisfaction of the Department that the emission rates for the entire Generation Unit are consistent with rates prescribed by the MassDEP for comparably fueled Generation Units in the Commonwealth. The Department may require the Generation Unit Owner or Operator to retain at its own expense a third-party consultant deemed satisfactory to the Department, to provide DOER and the MassDEP with assistance in this determination.

(c) The Generation Unit must provide with its Statement of Qualification Application a fuel supply plan that specifies each and every fuel that it intends to use, in what relative proportions either in co-firing or in a Blended Fuel, and with what individual input heat values. Such plan shall include the procedures by which the Unit will document to the satisfaction of the Department its compliance with the plan.

(d) The provisions of this subsection shall not apply to the incidental use of ineligible fuels for the purpose of cold starting a Generation Unit that otherwise exclusively uses an Eligible RPS Class II Renewable Fuel.

(3) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area. The portion of the total electrical energy output of an RPS Class II Generation Unit located in a Control Area adjacent to the ISO-NE Control Area that qualifies as RPS Class II Renewable Generation shall meet the requirements in Rule 2.7(c) and all other relevant sections of the NEPOOL GIS Operating Rules or any successor rule, and the

following requirements:

(a) The Generation Unit Owner or Operator shall provide documentation, satisfactory to the Department, of a contract or other legally enforceable obligation(s) ("Legal Obligation") that is executed between the Generation Unit Owner or Operator and an electrical energy purchaser located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE Control Area. Such documentation shall include provisions for obtaining associated transmission rights for delivery of the Unit's electrical energy from the Unit to the ISO-NE Control Area. The Generation Unit Owner or Operator shall pay for evaluation and verification of the provisions of such documentation by an independent party that is engaged or approved by the Department.

(b) The Generation Unit Owner or Operator shall provide documentation, satisfactory to the Department, that:

1. the electrical energy delivered pursuant to the Legal Obligation was settled in the ISO-NE Settlement Market System;
2. the Generation Unit produced, during each hour of the applicable month, the amount of MWhs claimed, as verified by the NEPOOL GIS administrator; if the originating Control Area employs a Generation Information System that is comparable to the NEPOOL GIS, information from that system may be used to support such documentation;
3. the electrical energy delivered under the Legal Obligation received a NERC Tag confirming transmission from the adjacent Control Area to the ISO-NE Control Area; and
4. the RPS Class II Renewable Generation Attributes or RPS Class II Waste Energy Generation Attributes have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(d) The Generation Unit Owner or Operator must provide an attestation in a form to be provided by the Department that it will not itself or through any affiliate or other contracted party, engage in the process of importing RPS Class II Renewable Generation into the ISO-NE Control Area for the creation of RPS Class II Renewable GIS Certificates, and then exporting that energy or a similar quantity of other energy out of the ISO-NE Control Area during the same hour.

(e) The quantity of electrical energy output from an RPS Class II Generation Unit outside the ISO-NE Control Area that can qualify as RPS Class II Renewable Generation at the NEPOOL GIS during each hour is limited to the lesser of the RPS Class II Renewable Generation actually produced by the Unit or the RPS Class II Renewable Generation actually scheduled and delivered into the ISO-NE Control Area.

(6) Special Provisions for Aggregations. An Aggregation of Generation Units that are located behind the customer meter or that are Off-grid Generation Units, each of which could

independently meet the relevant requirements of 225 CMR 15.05, may receive a single Statement of Qualification and be treated as a single Qualified Renewable Generation Unit under the following criteria and procedures:

- (a) Each Generation Unit in such Aggregation must use the same fuel, energy resource and technology as all other Units in the Aggregation.
- (b) Each of the Owners or Operators of Generation Units within the Aggregation must enter into an agreement with a person or entity that serves as the Authorized Agent for the Aggregation in all dealings with the Department and with the NEPOOL GIS, and such agreement must include procedures by which the electrical energy output of each Unit shall be monitored and reported to the NEPOOL GIS.
- (c) The Authorized Agent of the Aggregation must establish and maintain a Generator account at the NEPOOL GIS under the NEPOOL GIS Operating Rules, including all provisions for Non-NEPOOL Generator Representatives, as that term is defined in Rule 2.1(a)(vi) of those Rules, or any successor rules.
- (d) The electrical energy output of each of the Generation Units in the Aggregation must be individually monitored and recorded, and it must be reported to the NEPOOL GIS as part of an aggregated total for the Aggregation, by an independent Third Party Meter Reader as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

15.06: Statement of Qualification Process for RPS Class II Renewable Generation Units

- (1) Statement of Qualification Application (SQA). An SQA shall be submitted to the Department by the Owner or Operator of the Generation Unit or Aggregation. The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions.
- (2) Review Procedures.
 - (a) The Department will notify the applicant when the SQA is administratively complete or if additional information is required pursuant to 225 CMR 15.06(1).
 - (b) The Department may, in its sole discretion, provide an opportunity for public comment on any SQA.
- (3) Issuance or Non-Issuance of an SQ.
 - (a) If the Department finds that all or a portion of the electrical energy output of a Generation Unit or of an Aggregation meets the requirements for eligibility as RPS Class II Renewable Generation pursuant to 225 CMR 15.05, the Department will provide the Owner or Operator of such Unit or Aggregation with an SQ.
 - (b) The Statement of Qualification shall include any applicable restrictions and

conditions that the Department deems necessary to ensure compliance by a particular Generation Unit or Aggregation with the provisions of 225 CMR 15.00.

(c) If the Generation Unit or Aggregation does not meet the requirements for eligibility as an RPS Class II Generation Unit, the Department shall provide written notice to the Owner or Operator, including the Department's reasons for such finding.

(4) RPS Effective Date. The RPS Effective Date shall be the earliest date on which electrical energy output of an RPS Class II Generation Unit can result in the creation of RPS Class II GIS Certificates, except that, in the case of a Biomass Unit, the RPS Effective Date shall not be earlier than the date on which the Department determines that the Unit has commenced compliance with the low-emission conditions in its SQ; in the case of a Hydroelectric Unit, the RPS Effective Date shall not be earlier than the date on which the Department determined that the Unit has commenced compliance with the environmental conditions in its SQ; and in the case of a Waste Energy Generation Unit, the RPS Effective Date shall not be earlier than the date on which the Department determines that the Unit has commenced compliance with the recycling program conditions in its SQ. In no instance shall the RPS Effective Date occur before January 1, 2009.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Operator of an RPS Class II Generation Unit shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, or other characteristics of the Generation Unit that may affect the eligibility of the Unit as an RPS Class II Generation Unit. The Owner or Operator shall submit the notification to the Department no later than 5 days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the RPS Class II Renewable Generation Unit and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner or Operator of an RPS Class II Generation Unit shall notify the Department of any changes in the ownership, operating entity, generation capacity, NEPOOL GIS account, independent verification system for the Unit's or Aggregation's electrical energy output, or contact information for the Generation Unit or Aggregation. The Owner or Operator shall submit the notification to the Department no later than 5 days following the end of the month during which such changes were implemented.

(7) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke a Statement of Qualification if the Owner or Operator of an RPS Class II Generation Unit fails to comply with 225 CMR 15.00.

15.07: Renewable Energy Portfolio Standard – Class II

(1) RPS Class II Renewable Generation Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier, under contracts executed or extended on or after January 1, 2009, shall include a minimum percentage of electrical energy sales with RPS Class II Renewable Generation Attributes. The RPS Class II Renewable Generation Minimum Standard shall be equal to 3.6

per cent.

(2) RPS Class II Waste Energy Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier, under contracts executed or extended on or after January 1, 2009, shall include a minimum percentage of electrical energy sales with RPS Class II Waste Energy Generation Attributes. The RPS Class II Waste Energy Minimum Standard shall be equal to 3.5 per cent.

15.08: Compliance Procedures for Retail Electricity Suppliers.

(1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in compliance with 225 CMR 15.00 if the information provided in the Compliance Filing submitted pursuant to 225 CMR 15.09 is true and accurate and demonstrates compliance with 225 CMR 15.07. A Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy Generation Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(2) Banked Compliance. A Retail Electricity Supplier may use RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy Generation Attributes produced in one Compliance Year for compliance in either or both of the two subsequent Compliance Years, subject to the limitations in this subsection and provided that the Retail Electricity Supplier is in compliance with 225 CMR 15.00 for all previous Compliance Years. In addition, the Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that such Attributes:

(a) were in excess of the RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy Generation Attributes needed for compliance in the Compliance Year in which they were generated, and that such excess Attributes have not previously been used for compliance with 225 CMR 15.00;

(b) do not exceed 30% of the RPS Class II Renewable Generation Attributes and 30% of the RPS Class II Waste Energy Generation Attributes needed by the Retail Electricity Supplier for compliance with the RPS Class II Renewable Generation Minimum Standard, and RPS Class II Waste Energy Minimum Standard in the year they were generated, subject to 225 CMR 15.09(2)(d);

(c) were produced during the Compliance Year in which they are claimed as excess by the generation of electrical energy sold to End-use Customers in the ISO-NE Control Area, by the generation of electrical energy on End-use Customers' sides of retail meters in the ISO-NE Control Area, or by the generation of electrical energy from Off-grid Generation Units in Massachusetts; and

(d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(3) Alternative Compliance for RPS Class II Renewable Generation Minimum Standard. A Retail Electricity Supplier may discharge its obligations under 225 CMR 15.07(1), in whole or in part, for any Compliance Year by making an Alternative Compliance Payment (ACP) to the Massachusetts Technology Park Corporation, established by M.G.L. c. 40J. Such funds shall be held in an account separate from other accounts of the Corporation.

(a) Procedures. A Retail Electricity Supplier shall receive Alternative Compliance Credits from the Department, subject to the following:

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 15.07(1) shall be determined by calculating the ratio of the total of ACPs paid for the Compliance Year to the ACP Rate for that Compliance Year.
2. The ACP Rate for the RPS Class II Renewable Generation Minimum Standard shall be \$25 per MWh for Compliance Year 2009. For each subsequent Compliance Year, the Department shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.
3. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made to the Massachusetts Technology Park Corporation during the Compliance Year.

(b) Use of Funds. The Department shall oversee the use of ACP funds by the Governing Board of the Massachusetts Renewable Energy Trust Fund, as established in M.G.L. c. 40J, § 4E.

(4) Alternative Compliance for RPS Class II Waste Energy Minimum Standard. A Retail Electricity Supplier may discharge its obligations under 225 CMR 15.07(2), in whole or in part, for any Compliance Year by making an Alternative Compliance Payment (ACP) to the Massachusetts Technology Park Corporation, established by M.G.L. c. 40J. Such funds shall be held in an account separate from other accounts of the Corporation.

(a) Procedures. A Retail Electricity Supplier shall receive Alternative Compliance Credits from the Department, subject to the following:

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 15.07(2) shall be determined by calculating the ratio of the total of ACPs paid for the Compliance Year to the ACP Rate for that Compliance Year.
2. The ACP Rate for the RPS Class II Waste Energy Minimum Standard shall be \$10 per MWh for Compliance Year 2009. For each subsequent Compliance Year, the Department shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.
3. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made to the Massachusetts Technology Park Corporation during the Compliance Year.

(b) Use of Funds. The Department shall oversee the use of ACP funds by the Governing Board of the Massachusetts Renewable Energy Trust Fund, as established in M.G.L. c. 40J, § 4E.

(5) Presumption of Attribute Ownership. Unless ownership is explicitly transferred by contract, the RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy Attributes shall be issued to the RPS Class II Renewable Generation Unit or RPS Class II Waste Energy Unit.

15.09: Annual Compliance Filings for Retail Electricity Suppliers

(1) Date of Annual Compliance Filing. For each Compliance Year, the Retail Electricity Supplier annually shall file an annual Compliance Filing with the Department no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

(2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the Filing shall document compliance with the provisions of 225 CMR 15.07 and 15.08 to the satisfaction of the Department and shall include, but not be limited to, the following:

(a) Total Electrical Energy Sales to End-use Customers. Documentation of the total MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in the Compliance Year. Such allocation is defined in 225 CMR 14.09(2)(a) as the total quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to all of the Supplier's Massachusetts retail subaccounts in the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules.

(b) Electrical Energy Sales to End-use Customers by Product. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance Year, verified by an independent third party satisfactory to the Department, consistent with the Guidelines. Such allocation is defined in 225 CMR 14.09(2)(b) as the quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to each of the Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules. The Department shall keep product information confidential to the extent permitted by law.

(c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers that were derived from both RPS Class II Renewable Generation and RPS Class II Waste Energy generation during the Compliance Year, and which may include electrical energy generated on End-use Customers' sides of retail meters in the ISO-NE Control Area or by Off-grid Generation Units in Massachusetts in the Compliance Year, as follows:

1. For electrical energy transactions included in the ISO-NE Settlement Market System, the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the Retail Electricity Supplier's ownership of GIS Certificates representing both RPS Class II Renewable Generation and RPS Class II Waste Energy generation during the Compliance Year.

2. For electrical energy transactions not included in the ISO-NE Settlement Market System, but for which the Retail Electricity Supplier has secured GIS Certificates from the NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of the Retail Electricity Supplier's ownership of GIS Certificates representing both RPS Class II Renewable Generation and RPS Class II Waste Energy generation during the Compliance Year.
- (d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity Product of any quantity of Attributes banked from one or both of the two previous years pursuant to 225 CMR 14.08(2) that are used to demonstrate compliance in the current Compliance Year, except that banked RPS Class II Waste Energy Generation Attributes cannot be used for compliance with the RPS Class II Renewable Generation Minimum Standard and banked RPS Class II Renewable Generation Attributes cannot be used for compliance with the RPS Class II Waste Energy Generation Minimum Standard.
- (e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any Alternative Compliance Credits claimed pursuant to 225 CMR 15.08(3), along with a copy of any Alternative Compliance Payment receipt(s); and
- (f) Attributes Banked for Future Compliance. Identification of any quantity of RPS Class II Renewable Generation Attributes and of any RPS Class II Waste Energy Generation Attributes that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 15.08(2).
- (g) Exempt Contracts under Minimum Standard. Identification of any contract for a specific term of years that was executed before January 1, 2009, and its terms including but not limited to, the execution and expiration dates of the contract and the annual volume of electrical energy supplied.

15.10: Reporting Requirements

- (1) Certification. Any person required by 225 CMR 15.00 to submit documentation to the Department shall provide:
- (a) the person's name, title and business address;
- (b) the person's authority to certify and submit the documentation to the Department; and
- (c) the following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and imprisonment."

(2) Annual Renewable Energy Resource Report. The Department shall produce an annual report that summarizes information submitted to the Department by Retail Electric Suppliers in the Annual Compliance Filing submitted to the Department pursuant to 225 CMR 15.09(2).

15.11: Inspection

(1) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 225 CMR 15.00. The Department may request and obtain from any Owner or Operator of an RPS Class II Renewable Generation Unit and any Retail Electricity Supplier information that the Department determines necessary to monitor compliance with and enforcement of 225 CMR 15.00.

(2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or RPS Class II Renewable Generation Unit Owner or Operator, the Department may conduct audits, which may include inspection and copying of records and/or site visits to an RPS Class II Renewable Generation Unit or a Retail Electricity Supplier's facilities, including, but not limited to, all files and documents that the Department determines are related to compliance with 225 CMR 15.00.

15.12: Non-compliance

Any Retail Electricity Supplier or Owner or Operator of a RPS Class II Renewable Generation Unit that fails to comply with the requirements of 225 CMR 15.00 shall be subject to the following provisions:

(1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR 15.00 shall be determined by the Department. A written Notice of Non-compliance shall be prepared and delivered by the Department to any Retail Electricity Supplier or Owner or Operator of a RPS Class II Renewable Generation Unit that fails to comply with the requirements of 225 CMR 15.00. The Notice of Non-compliance shall describe the Requirement(s) with which the Retail Electricity Supplier, Owner, or Operator failed to comply and the time period of such non-compliance.

(2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be published on the Department's website and in any other media deemed appropriate by the Department. Such publication may remain posted until the Retail Electricity Supplier or Owner or Operator returns to compliance as determined by the Department.

(3) Planning Requirement. A Retail Electricity Supplier that fails to meet the requirements of 225 CMR 15.07 during a Compliance Year shall submit a plan for achieving compliance for the subsequent three years. The plan shall be filed with the Department no later than the first day of September of the Compliance Year subsequent to the Compliance Year for which the Retail Electricity Supplier was out of compliance or such date as the Department may specify.

(4) Suspension or Revocation of License. The Department shall refer its findings of non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity Supplier that fails to comply with 225 CMR 15.00 may be subject to the Massachusetts Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

15.13: Severability

If any provision of 225 CMR 15.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 15.00: M.G.L. c. 25A, § 11F.